

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES E. KARR and)
MAUREEN KARR, his wife,)
Plaintiffs,) 2:07cv1232
v.)
BRIAN KETTERMAN and CITY OF)
DUQUESNE POLICE DEPARTMENT,)
Defendants.

ORDER OF COURT

AND NOW, this 21st day of December, 2007, upon consideration of DEFENDANT CITY OF DUQUESNE POLICE DEPARTMENT'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT and Brief in Support (Document Nos. 3 and 4) and the Court's Text Order of October 2, 2007 which required a response to said Motion on or before October 22, 2007, and the Court's Order to Show Cause of November 28, 2007, which again instructed Plaintiffs to file a brief and response in opposition to the pending Motion to Dismiss and extended the response date to on or before December 11, 2007, and with no response having been filed by Plaintiffs and with due consideration and deliberation of the factual and legal arguments advanced in the Brief in Support of Defendant's Motion to Dismiss, each of which the Court finds to have merit and are specifically unrebutted by Plaintiffs,

NOW THEREFORE, Defendant City of Duquesne Police Department's Motion to Dismiss is **GRANTED** in its entirety and the City of Duquesne Police Department is dismissed without prejudice.

Furthermore, it appears that Defendant Brian Ketterman has not been served with Summons and/or the Complaint although one hundred twenty (120) days have passed since the

Complaint in this matter was filed on July 24, 2007. Accordingly, Defendant Ketterman is dismissed with prejudice.

The Clerk shall docket this case closed.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

cc: Elizabeth A. Beroes, Esquire
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